

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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TRACY HØEG, M.D., Ph.D.; RAM  
DURISETI, M.D., Ph.D.; AARON  
KHERIATY, M.D.; PETE  
MAZOLEWSKI, M.D.; and AZADEH  
KHATIBI, M.D., M.S., M.P.H.,

Plaintiffs,

v.

GAVIN NEWSOM, Governor of the  
State of California, in his  
official capacity; KRISTINA  
LAWSON, President of the  
Medical Board of California, in  
her official capacity; RANDY  
HAWKINS, M.D., Vice President  
of the Medical Board of  
California, in his official  
capacity; LAURIE ROSE LUBIANO,  
Secretary of the Medical Board  
of California, in her official  
capacity; MICHELLE ANNE BHOLAT,  
M.D., M.P.H., DAVID E. RYU,  
RYAN BROOKS, JAMES M. HEALZER,  
M.D., ASIF MAHMOOD, M.D.,  
NICOLE A. JEONG, RICHARD E.  
THORP, M.D., VELING TSAI, M.D.,  
and ESERICK WATKINS, members of  
the Medical Board of  
California, in their official  
capacities; and ROB BONTA,  
Attorney General of California,

No. 2:22-cv-01980 WBS AC

ORDER

in his official capacity;  
Defendants.

LETRINH HOANG, D.O.; PHYSICIANS  
FOR INFORMED CONSENT, a not-for  
profit organization; and  
CHILDREN'S HEALTH DEFENSE,  
CALIFORNIA CHAPTER, a  
California Nonprofit  
Corporation;

Plaintiffs,

v.

ROB BONTA, in his official  
capacity as Attorney General of  
California; and ERIKA CALDERON,  
in her official capacity as  
Executive Officer of the  
Osteopathic Medical Board of  
California;

Defendants.

No. 2:22-cv-02147 WBS AC

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Plaintiffs brought these now-related § 1983 actions  
challenging the constitutionality of California Business &  
Professions Code § 2270. The court preliminarily enjoined  
enforcement of § 2270 against all plaintiffs on January 25, 2023.  
The California Legislature subsequently repealed § 2270,  
effective January 1, 2024. See Cal. Senate Bill 815 (Sept. 30,  
2023).

The court previously requested supplemental briefing on  
the issue of whether the repeal of § 2270 moots these actions.  
Upon further reflection, and after consultation with counsel at  
the hearing on December 18, 2023, the court is disinclined to  
decide and act on the mootness issue in the absence of a

1 dispositive motion raising it.

2           The court's scheduling order dated May 12, 2023 set a  
3 pretrial briefing schedule, with plaintiffs' motion(s) for  
4 summary judgment due October 2, 2023 and the hearing on any  
5 summary judgment motions set no earlier than January 2, 2024.  
6 (See Høeg Docket No. 47; Hoang Docket No. 41.) In light of the  
7 repeal of the challenged statute, the Hoang plaintiffs and  
8 defendants requested that the court modify the pretrial briefing  
9 schedule.

10           The court will grant this request and modify the  
11 scheduling order as follows.

12           By December 29, 2023, the parties in both actions shall  
13 submit joint status reports proposing an updated dispositive  
14 motion briefing and hearing schedule. If the parties wish to  
15 propose updated discovery and/or trial dates, they may, but are  
16 not required to do so.

17           The Høeg plaintiffs may, if they choose, withdraw their  
18 pending Motion for Summary Judgment (Høeg Docket No. 48),  
19 currently set for January 8, 2024, and file a new motion in  
20 compliance with the updated scheduling order.

21           IT IS SO ORDERED.

22 Dated: December 21, 2023



23 WILLIAM B. SHUBB

24 UNITED STATES DISTRICT JUDGE  
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